

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

SHERWOOD CLEMENT)	
and)	
CHANDLER HUGHES,)	Case No. 4:12-cv-00012
)	
Plaintiffs,)	
)	<u>ORDER</u>
v.)	
)	
RAY SATTERFIELD,)	By: Jackson L. Kiser,
)	Senior United States District Judge
Defendant.)	

**ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT
IN PART, AND DENYING DEFENDANT'S MOTION IN PART**

Before me is Defendant's Motion for Summary Judgment [ECF No. 23], which was filed on January 11, 2013. Plaintiffs filed a timely Response in Opposition to Defendant's Motion [ECF No. 28] on January 25, 2013, and Defendants followed by filing their Reply [ECF No. 29] on February 1, 2013. On February 5, 2013, I heard oral argument from both sides outlining their respective positions on the law, the facts, and the nature and extent of the record. At oral argument, I granted Plaintiffs' request to file additional briefings in this case, which Plaintiffs filed on February 15, 2013 [ECF No. 32]. Defendant responded on February 19, 2013 [ECF No. 33]. Having thoroughly reviewed the briefs, the record, and the arguments of counsel, the matter is now ripe for decision.

For the reasons stated in the accompanying Memorandum Opinion, I hereby **GRANT** Defendant's Motion in part, and **DENY** Defendant's Motion in part. Defendant's Motion is **GRANTED** with respect to Plaintiffs' claims pursuant to 42 U.S.C. §§ 1981 and 1983, the Equal Protection Clause of the Fourteenth Amendment, 42 U.S.C. § 12132 of the Americans with

Disabilities Act, 42 U.S.C. §§ 2000a and 2000d, and retaliation under all proceeding grounds. Defendant's Motion is **DENIED** with respect to Plaintiff Clement's claim under 42 U.S.C. § 12182 of the ADA ("Title III"). Because Plaintiff is not entitled to present his Title III claim to a jury, I will hear this matter in a bench trial on March 12, 2013, at 9:30am.

The clerk is directed to send a copy of the Memorandum Opinion and accompanying Order to all counsel of record.

Entered this 28th day of February, 2013.

s/Jackson L. Kiser
SENIOR UNITED STATES DISTRICT JUDGE